

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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DATE FILED: 11/10/2022

UNITED STATES OF AMERICA,

-against-

DARRELL JONES,

Defendant.

NELSON S. ROMÁN, United States District Judge

By Order and Opinion (“Order”), dated July 20, 2022, this Court denied Petitioner Darrell Jones’s motion pursuant to 28 U.S.C. § 2255 to, *inter alia*, vacate, set aside, or correct his sentence. (No. 19-CR-35, ECF No. 23; No. 21-CV-6465, ECF No. 2.)

Upon review of the moving papers and the Order, the Court determines that Petitioner has not made “a substantial showing of the denial of a constitutional right,” such that a certificate of appealability will not be issued. 28 U.S.C. § 2253; *see Lucidore v. N.Y.S. Div. of Parole*, 209 F.3d 107, 111–12 (2d Cir. 2000) (quoting *Barefoot v. Estelle*, 463 U.S. 880, 893 n.4 (1983)) (“[A] ‘substantial showing’ does not compel a petitioner to demonstrate that he would prevail on the merits, but merely that the issues involved in his case ‘are debatable among jurists of reason; that a court could resolve the issues [in a different manner]; or that the questions are adequate to deserve encouragement to proceed further.’”); *see also Slack v. McDaniel*, 529 U.S. 473, 483–84 (2000).

The Court further certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this judgment on the merits would not be taken in good faith, *see Coppedge v. United States*, 369 U.S. 438, 445 (1962) (“We consider a defendant’s good faith . . . demonstrated when he seeks appellate review of any issue not frivolous.”); *Burda Media Inc. v. Blumenberg*, 731 F. Supp. 2d 321, 322–23 (S.D.N.Y. 2010) (citing *Coppedge* and noting that an appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith).

Petitioner may still avail himself of the procedures for seeking a certificate from the court of appeals. *See* 28 U.S.C. §§ 2254 & 2255 (Rule 11); *see, e.g.*, *United States v. Whitman*, 153 F. Supp. 3d 658, 659 (S.D.N.Y. 2015).

This constitutes the Court Order and Opinion. The Clerk of Court is respectfully directed to mail a copy of this Order and Opinion to Petitioner at Reg #11032-052, FCI Williamsburg, P.O. Box 340, Salters, SC 29590, and to show service on the docket.

November 10, 2022
White Plains, New York

SO ORDERED:



NELSON S. ROMÁN